



**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RUSSELL COHEN,

Plaintiff,

v.

JERRY BAINBRIDGE, *et al.*

Defendants.

3:06-CV-630-BES-RAM

ORDER

Before the Court is Defendants' Motion to Dismiss (#14) filed April 11, 2008 and Motion for Court Decision on Defendants' Motion to Dismiss (#18) filed October 14, 2008. This action was referred to U.S. Magistrate Robert A. McQuaid, pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. The Magistrate Judge submitted his Report and Recommendation (#20) on December 5, 2008, recommending that this Court grant defendants' motions (#14 & #18). Plaintiff filed an Objection to the Recommendation (#22) on December 19, 2008 and defendants' filed their Opposition to Plaintiff's Objection to Report and Recommendation of U.S. Magistrate Judge (#23) on January 5, 2009.

I. ANALYSIS

A. Review of Magistrate Judge's Order

Any party may object to a magistrate judge's case dispositive proposed order, findings, or recommendations. 28 U.S.C. § 636(b)(1)(B); Fed.R.Civ.P. 72(b); LR 74.2. The district court must make a *de novo* determination of those portions of the magistrate judge's report to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. *Id.* De novo review means the court must

1 consider the matter anew, the same as if it had not been heard before and as if no decision
2 previously had been rendered. Ness v. Commissioner, 954 F.2d 1495, 1497 (9th Cir. 1992).
3 Thus, although the district court need not hold a *de novo* hearing, the court's obligation is to
4 arrive at its own independent conclusion about those portions of the magistrate judge's
5 findings or recommendation to which objections are made. United States v. Remsing, 874
6 F.2d 614, 617 (9th Cir. 1989).

7 After conducting a *de novo* review of the record, the Court accepts and adopts the
8 Magistrate Judge's recommendation (#20).

9 **III. CONCLUSION**

10 IT IS HEREBY ORDERED that defendants' Motion to Dismiss (#14) and Motion for
11 Court Decision on Defendants' Motion to Dismiss (#18) are GRANTED.

12 IT IS SO ORDERED.

13 DATED: This 22ND day of January, 2009.
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19 UNITED STATES DISTRICT JUDGE
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